

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY  
DOCUMENT  
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DATE FILED: 1/6/2022

ANN MARIE FERETTI,

Plaintiff,

-against-

MOTION PT GROUP, INC., MOTION PT MANAGEMENT,  
INC., EDWARD R. MIERSCH, individually,

Defendants.

1:21-cv-05833-MKV

ORDER

MARY KAY VYSKOCIL, United States District Judge:

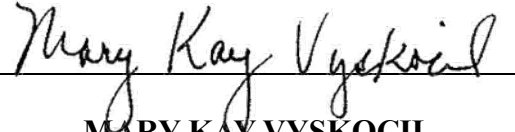
On December 8, 2021, the Parties informed the Court that this case had been settled in principle. [ECF No. 71]. At the direction of the Court, the Parties submitted the proposed settlement agreement and documentation supporting the fairness of the settlement. [ECF Nos. 18-19]. The Court has reviewed these documents for fairness in accordance with the FLSA and Second Circuit law. *See, e.g., Cheeks v. Freeport Pancake House*, 796 F.3d 199 (2d Cir. 2015). Considering the totality of the circumstances, the Court finds that the settlement is fair and reasonable and is the product of arm's length negotiations by parties represented by experienced counsel. It should be noted, however, that the Court is not opining specifically on the reasonableness of the rates charged by the attorney representing Plaintiff.

Accordingly, the settlement is approved. The Parties jointly represent that the remaining State and City wages are "being contemporaneously settled pursuant to a confidential settlement agreement." [ECF No. 19]. IT IS HEREBY ORDERED that the above-captioned action is discontinued without costs to any party and without prejudice to restoring the action to this Court's calendar if the parties are unable to memorialize their settlement in writing and as long as the application to restore the action is made by February 7, 2022. If no such application is made

by that date, today's dismissal of the action is with prejudice. *See Muze, Inc. v. Digital On Demand, Inc.*, 356 F.3d 492, 494 n.1 (2d Cir. 2004).

**SO ORDERED.**

**Date: January 6, 2022**  
**New York, NY**

  
**MARY KAY VYSKOCIL**  
**United States District Judge**